

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
1550 MAIN STREET
SPRINGFIELD, MA 01103

NOTICE CONCERNING WAIVER OF JUDICIAL
DISQUALIFICATION

FROM: Bethaney Healy, Clerk

Date: February 9, 2004

TO: William M. Welch, II, Esq.
United States Attorney's Office
1550 Main Street
Springfield, MA 01103

Judith Knight, Esq.
Hellman and Shearn
342 Main Street
Great Barrington, MA 01230

C. Jeffrey Kinder, Esq.
Fierst, Pucci & Kinder
64 Gothic Street
Northampton, MA 01060

RE: United States v. Paul Calcasola and Elisabel Rivas, Criminal No. 04-30002-MAP

Canon 3D of the Code of Conduct provides (with exceptions not pertinent to this case) that when a judge is disqualified in a proceeding because "the judge's impartiality might reasonably be questioned," the judge may participate in the proceeding if all the parties and lawyers, after notice of the basis for the disqualification, agree in writing to waive the disqualification under a procedure independent of the judge's participation.

Unless a waiver is obtained from all parties and all counsel, Magistrate Judge Kenneth P. Neiman intends to disqualify himself in this proceeding because C. Jeffrey Kinder, an attorney for one of the defendants, is a partner in a law firm which has a lease agreement with and rents office space in Northampton, Massachusetts, owned by Magistrate Judge Neiman and Frederick U. Feirst (another partner in the firm).

If you and your clients wish to waive the Magistrate Judge's disqualification, letters to that effect from you and your clients must be sent to me within seven days of the date of this Notice, i.e., by February 19, 2004. The letters should not be sent to the Magistrate Judge and copies should not be sent to other counsel. If all parties and all counsel submit such letters, this Notice and all responses will be made part of the record, as required by Canon 3D, and the Magistrate Judge will continue participation in the proceeding. If a waiver is not received from all parties and all counsel, any responses will be kept under seal by the clerk and not shown to the Magistrate Judge, nor will the Magistrate Judge be informed of the identity of any party or lawyer who declined to waive the disqualification.

HELLMAN & SHEARN
ATTORNEYS AT LAW

DAVID N. HELLMAN *
KENNETH M. SHEARN *△

OF COUNSEL
JUDITH C. KNIGHT†

* ALSO ADMITTED IN NEW YORK
△ ALSO ADMITTED IN CALIFORNIA
† ALSO ADMITTED IN COLORADO

342 MAIN STREET
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Via fax 413-785-0204 and regular mail
Bethany Healy, Clerk
U.S. District Court
Federal Bldg & Courthouse
1550 Main Street
Springfield, MA 01103

February 27, 2004

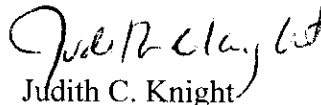
Re: U.S. vs. Rivas: criminal docket no. 04-30002-MAP

Dear Bethany:

I am writing in response to your Notice Concerning Waiver of Judicial Qualification dated February 9, 2004. Please be advised that on behalf of Ms. Rivas, I hereby waive the disqualification of Magistrate Judge Neiman in the above matter.

Please let me know if you require any additional documentation from on this issue.

Sincerely,


Judith C. Knight

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U.S. DISTRICT COURT
DISTRICT OF MASS.

FREDERICK U. FIERST*
JOHN P. PUCCI
C. JEFFREY KINDER**

JONATHAN J. KANE***
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U.S. DISTRICT COURT
DISTRICT OF MASS.

February 12, 2004

Bethany Healy, Clerk
U.S. District Court
District of Massachusetts
Federal Bldg & Courthouse
1550 Main Street
Springfield MA 01103

Re: U.S. v. Paul Calcasola, Criminal No. 04-CR-30002-MAP

Dear Bethany:

I am writing in response to your Notice Concerning Waiver of Judicial Qualification dated February 9, 2004.

Please be advised that my client, Paul Calcasola, and I hereby waive the disqualification of Magistrate Judge Neiman in the above-captioned case.

Please let me know if a disqualification results in a change of the status conference scheduled for March 9, 2004.

Very truly yours,



C. Jeffrey Kinder



Paul Calcasola

CJK\hs

* ALSO ADMITTED IN NEW YORK

** ALSO ADMITTED IN COLORADO

*** ALSO ADMITTED IN NEW HAMPSHIRE AND CONNECTICUT

SCANNED



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U.S. DISTRICT COURT
DISTRICT OF MASS.

U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (413) 785-0235
Facsimile: (413) 785-0394

Federal Building and Courthouse
1550 Main Street, Room 310
Springfield, Massachusetts 01103

February 12, 2004

Bethaney Healy, Clerk
U.S. District Court
1550 Main Street
Springfield, MA 01103-1422

Re: United States v. Paul Calcasola and Elizabeth Rivas
Criminal No. 04-30002-MAP

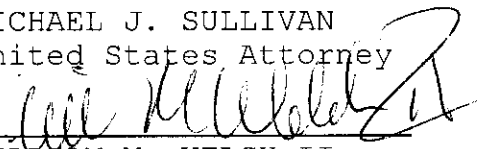
Dear Bethaney:

I agree to waive the Magistrate Judge's disqualification.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


WILLIAM M. WELCH II
Assistant U.S. Attorney

amw